

HALEY WEINBLATT & CALCAGNI, LLP
1601 Veterans Memorial Highway, Suite 425
Islandia, New York 11749
631-582-5151

December 4, 2014

United States Attorney
Eastern District of New York
610 Federal Plaza
Central Islip, NY 11722
Attn: Catherine M. Mirabile
Assistant U.S. Attorney

RE: United States v. Philip Kenner & Tommy C. Constantine
Docket Number: 13-CR-607 (JFB)

Dear Ms. Mirabile:

Yesterday afternoon, I received the flash drive that I returned to your office pursuant to your direction in order for the files to be re-copied or the program re-set with the appropriate password so as to access the files contained on the flash drive, fifteen (15) in number with an undetermined amount of electronically stored information. As you will recall, when I first tried to open the files on the flash drive my computer screen read "EPM Encrypted Disk" and I contacted you via e-mail to obtain the password. You responded immediately and advised me that the password was "Kenner2014".

Utilizing the password "Kenner2014", I received a computer screen response "Incorrect Password" and the notation "You will not be able to access this drive because you did not enter a valid password". I then used the variation (all caps) "KENNER2014" and received the same computer screen response. As noted above, I then returned the flash drive to your office at your direction with the instruction to address the correspondence to your para-legal, Megan Hynes.

The flash drive returned to me yesterday by Ms. Hynes was preceded by an e-mail advising me that the password to open the files is "Kenner2014". Once again, I repeated the process described in the preceding paragraph with identical results. Thus, it appears that Ms. Hynes may have inadvertently returned the same flash drive without causing your IT personnel to re-set the password or provide a correct password as mentioned in your e-mails to me, dated November 19, 2014 and November 24, 2014.

Inasmuch as the label contained on the envelope for the flash drive reads "Non-Privileged", I request that you do not release the contents of the flash drive to the prosecution team until such time that my client and myself have the opportunity to review the files. This letter supplements my letters of November 24, 2014, November 26, 2014 and December 2, 2014. In view of the foregoing, I await your reply and/or suggestions as we endeavor to resolve the recurring technical obstacles in

the transfer of electronically stored information.

Finally, I note that I misspelled your last name in my previous correspondence. Please accept my sincere apologies.

Very truly yours,

Richard D. Haley

RICHARD D. HALEY

cc: Hon. Joseph F. Bianco via ECF
AUSA James M. Miskiewicz via ECF
AUSA Saritha Komatireddy via ECF